

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

South Coast Maritime Corporation
Plaintiff,

vs.

M/V LIBRA, *in rem*, Chalico Concrete
Materials, Inc., Inc. and Jose H. Chalico, *in*
personam

Defendants.

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Civil Action No. _____
Admiralty

VERIFIED ORIGINAL COMPLAINT

TO THE JUDGE OF THIS COURT:

COMES NOW South Coast Maritime Corporation, Plaintiff (sometimes referred to herein as "SCM"), and asserts its Verified Original Complaint against the Defendants, M/V LIBRA, her engines, gear, etc., *in rem*, Chalico Concrete Materials, Inc. and Jose H. Chalico , *in personam*, as follows:

1. This is an admiralty and maritime claim within the jurisdiction of the United States and this Honorable Court pursuant to Article III, Section 2 of the United States Constitution, 28 U.S.C. § 1333, and Rule 9(h) of the Federal Rules of Civil Procedure for Certain Admiralty and Maritime Claims.
2. Plaintiff is a Texas Corporation organized and existing under law with its principal office and place of business in the Southern District of Texas, Brownsville Division.
3. Defendant M/V LIBRA, *in rem*, is a towing vessel, Official Number 647864, which is now within the jurisdiction of the United States District Court for the Southern District of Texas, Brownsville Division.
4. Defendant, *in personam*, is Chalico Concrete Materials, Inc., a corporation organized under the laws of the State of Texas, but whose corporate charter was suspended

according to the Texas Secretary of State's records. Chalico Concrete Materials, Inc. is the current owner of the M/V LIBRA.

5. Defendant, *in personam*, is Jose H. Chalico, an individual who resides and does business in the Southern District of Texas, Brownsville Division. Mr. Chalico is the principal officer and owner of Defendant Chalico Concrete Materials, Inc., a Texas corporation whose charter was suspended by the Texas Secretary of State.

SUPPLY OF NECESSARIES TO, & SALVAGE OF THE M/V LIBRA

6. Plaintiff SCM provides marine lifting services utilizing crane vessels. Pursuant to a Master Lift Services Agreement ("MLSA") dated August 8, 2012, executed by SCM and *in personam* Defendants Jose H. Chalico and Chalico Concrete Materials, Inc., SCM provided necessities, as that term is defined under the law, including its vessels, equipment and labor to raise and retrieve the M/V LIBRA, which lay partially sunken at Port Isabel, Texas. *Exhibit A* is a true and correct copy of the Master Lift Services Agreement dated August 8, 2012. SCM fulfilled its obligations under the MLSA - it mobilized and completed the work relying upon the agreements, representations and credit of M/V LIBRA, including Defendants' agreement to pay SCM's invoice within 30 days of receipt.
7. Upon completion of the work, Plaintiff duly submitted its invoice to Defendants. *Exhibit B* is a true and correct copy of the invoice dated September 17, 2012, in the amount of \$121,981.28. Defendants have made a partial payment of \$45,000. However, despite repeated requests for payment, there remains due and owing a balance of \$76,981.28.
8. Due demand has been made as demonstrated by Exhibits C and D, letters from SCM and SCM's counsel, respectively, requesting payment. A balance of \$76,981.12 has not been satisfied. All conditions precedent to filing this action have been performed.

9. The services and materials provided by Plaintiff benefited the vessel and constituted necessities for the *in rem* Defendant M/V LIBRA. As such, Plaintiff has a maritime lien against the *in rem* Defendant M/V LIBRA, pursuant to the Maritime Commercial Instruments & Lien Act, 46 U.S.C. § 31301 *et. seq.* and Rule C of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure. Although it is not required to do so, Plaintiff previously documented its lien with the National Vessel Documentation Center. See *Exhibit E*, a true and correct copy of the lien filing.
10. By reason of such lien, Plaintiff accordingly seeks a warrant of maritime arrest of the Defendant M/V LIBRA, pursuant to Rule C of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.
11. It has been necessary for Plaintiff to retain counsel in order to obtain payment of their services and reimbursements of their out-of-pocket expenses and disbursements in connection with the foregoing unpaid balance, as a result of which Plaintiff is entitled to recover reasonable attorney's fees, costs and disbursements in connection with maintaining this action.
12. Plaintiff is entitled to recover pre-and post-judgment interest on its damages awarded herein.
13. All and singular the above premises are true and correct and within the admiralty and maritime jurisdiction of this court.
WHEREFORE, Plaintiff prays:
 14. That process in due form of law according to the practice of this Court in cases of admiralty and maritime jurisdiction issue against the *in rem* Defendant M/V LIBRA, and her engines, apparel, gear and appurtenances;
 15. That the vessel be seized under a Rule C Warrant of Seizure pursuant to the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, and that all persons claiming any right, title, or interest therein be cited to appear and to answer the matters aforesaid;

16. That the maritime liens of Plaintiff be recognized and enforced with preference and priority over all persons whomsoever;
17. That the Court enter judgment for Plaintiff and against the M/V LIBRA, *in rem*, Chalico Concrete Materials, Inc. and Jose H. Chalico, *in personam*, jointly and severally, in the amount of at least \$76,981.12, and such other amount as may be proved, together with interest, costs, and attorney 's fees;
18. That the M/V LIBRA be sold to satisfy said judgment; and
19. That the Court grant all other and further relief to which Plaintiff is entitled.

Respectfully submitted,

By: /s/ M. Mauricio Chavez
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